

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1152

H.P. 796

House of Representatives, March 23, 2009

**An Act To Amend the Laws Governing Certain Reports and
Reviews Related to Utilities and Energy and Certain Positions at the
Public Utilities Commission**

Submitted by the Public Utilities Commission pursuant to Joint Rule 204,
Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HINCK of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 2 MRSA §6-A, sub-§3, ¶B**, as amended by PL 1981, c. 582, §1, is further
3 amended to read:

4 B. Director of ~~finance~~ telephone and water utility industries;

5 **Sec. 2. 2 MRSA §6-A, sub-§3, ¶D**, as amended by PL 2005, c. 23, §1, is further
6 amended to read:

7 D. Director of ~~technical analysis~~ electric and gas utility industries;

8 **Sec. 3. 3 MRSA §959, sub-§1, ¶P**, as amended by PL 2005, c. 605, §2, is further
9 amended to read:

10 P. The joint standing committee of the Legislature having jurisdiction over utilities
11 and energy matters shall use the following list as a guideline for scheduling reviews:

- 12 (1) Public Advocate in 2005;
- 13 (2) Board of Directors, Maine Municipal and Rural Electrification Cooperative
14 Agency in 2007;
- 15 (3) Public Utilities Commission, including the Emergency Services
16 Communication Bureau, in 2007; and
- 17 ~~(4) The Emergency Services Communication Bureau within the Public Utilities~~
18 ~~Commission in 2009; and~~
- 19 (5) Telecommunications Relay Services Advisory Council in 2013.

20 **Sec. 4. 5 MRSA §949, sub-§1, ¶B**, as enacted by PL 1983, c. 729, §4, is
21 amended to read:

22 B. Director of ~~Finance~~ telephone and water utility industries;

23 **Sec. 5. 5 MRSA §949, sub-§1, ¶D**, as amended by PL 2007, c. 482, §3, is further
24 amended to read:

25 D. Director of ~~Technical Analysis~~ electric and gas utility industries;

26 **Sec. 6. 25 MRSA §2927, sub-§5**, as amended by PL 1997, c. 409, §1, is further
27 amended to read:

28 **5. Legislative annual report.** The bureau shall ~~report annually, before February 1st,~~
29 include in the Public Utilities Commission's annual report pursuant to Title 35-A, section
30 120, subsection 7 to the joint standing committee of the Legislature having jurisdiction
31 over utilities and energy matters on:

- 32 A. The bureau's planned expenditures for the year and use of funds for the previous
33 year;
- 34 B. The statewide E-9-1-1 surcharge collected under this section;
- 35 C. The bureau's recommended statewide E-9-1-1 surcharge for the coming year; and

1 D. The bureau's recommendations for amending existing and enacting new law to
2 improve the E-9-1-1 system.

3 **Sec. 7. 35-A MRSA §107**, as amended by PL 2007, c. 482, §5, is further amended
4 to read:

5 **§107. The Public Utilities Commission staff**

6 The following provisions shall apply to the commission's staff.

7 **1. Appointment.** The commission shall appoint:

8 A. An administrative director, a director of ~~finance~~ telephone and water utility
9 industries, a director of ~~technical analysis~~ electric and gas utility industries, a director
10 of energy programs and a director of consumer assistance;

11 B. With the approval of the Attorney General, a general counsel; and

12 C. An assistant administrative director.

13 **2. Salary and conditions of employment.** Salaries and conditions of employment
14 of employees of the commission shall be are as follows.

15 A. The general counsel, the administrative director, the assistant administrative
16 director, the director of ~~finance~~ telephone and water utility industries, the director of
17 ~~technical analysis~~ electric and gas utility industries, the director of energy programs
18 and the director of consumer assistance serve at the pleasure of the commission and
19 their salaries must be set by the commission within the ranges established by Title 2,
20 section 6-A.

21 B. The compensation of the staff attorney and utility analyst positions are fixed by
22 the commission with the approval of the Governor, but the compensation may not in
23 the aggregate exceed the total amount appropriated or allocated in the commission's
24 budget.

25 C. The salaries of the other subordinate officials and employees of the commission,
26 other than those of the general counsel, the administrative director, the assistant
27 administrative director, the director of ~~finance~~ telephone and water utility industries,
28 the director of ~~technical analysis~~ electric and gas utility industries, the director of
29 energy programs, the director of consumer assistance and the staff attorney and utility
30 analyst positions, are subject to the Civil Service Law.

31 E. The commissioners and all employees shall receive actual expenses when
32 traveling on official business.

33 **3. Commission's access to staff.** Each commissioner may have access to the Public
34 Utilities Commission staff and to any information available to the commission, subject to
35 ~~the Maine Administrative Procedure Act~~, Title 5, section 9055.

36 **4. Delegation of powers and duties to the staff.** The commission may delegate to
37 its staff such powers and duties as the commission finds proper. All delegations existing
38 as of the effective date of this section are valid.

1 **5. Administrative director's duties.** The administrative director:
2 A. Shall keep a record of the proceedings of the commission, which ~~shall~~ must be
3 open to inspection at all times; and

4 B. May certify all official acts of the commission, administer oaths and issue
5 subpoenas, processes, notices, orders and other documents necessary to the
6 performance of the commission's duties.

7 **6. Assistant administrative director's duties.** The assistant administrative director
8 shall assist the director in the performance of ~~his~~ the director's duties and in the absence
9 of the director ~~shall have~~ has the same power as the director.

10 **7. Commission counsel.** The commission may employ counsel in any proceeding,
11 investigation or trial.

12 **8. Dismissal.** After successful completion of a probationary period, the employees
13 occupying the positions of staff attorney and utility analyst may be dismissed, suspended
14 or otherwise disciplined only for cause.

15 **Sec. 8. 35-A MRSA §120, sub-§4,** as amended by PL 2001, c. 137, §1, is further
16 amended to read:

17 **4. Rural issues.** The commission's efforts undertaken in accordance with its
18 authority under this Title to ensure that rural areas of this State are not disadvantaged as
19 utility industries are restructured and competitive markets developed. The commission
20 shall identify any rural issues that it has determined may require legislative action; ~~and~~

21 **Sec. 9. 35-A MRSA §120, sub-§5,** as enacted by PL 2001, c. 137, §2, is amended
22 to read:

23 **5. Telephone exemptions.** The commission's activities undertaken pursuant to its
24 authority to grant exemptions to telephone utilities from certain portions of this Title;

25 **Sec. 10. 35-A MRSA §120, sub-§6** is enacted to read:

26 **6. Significant developments.** Any significant developments in the utility sectors or
27 other areas of commission oversight; and

28 **Sec. 11. 35-A MRSA §120, sub-§7** is enacted to read:

29 **7. Other.** All other subjects that the commission is required to include in the annual
30 report pursuant to law.

31 **Sec. 12. 35-A MRSA §803,** as enacted by PL 1991, c. 524, §6, is amended to
32 read:

33 **§803. Blocking service**

34 Where facilities are available, a collecting utility shall provide all one-party
35 residential and single-line business telephone subscribers with an opportunity to block the

1 access of audiotext service providers to subscribers' telephone lines free of charge and
2 with an opportunity to reopen such access. A utility may not charge for customers' first
3 exercise of either option. Thereafter, collecting utilities shall continue to offer
4 subscribers the ability to block and reopen such access, but may charge a fee for
5 provision of this service, which may not exceed \$5 for each occasion on which the
6 service is provided. ~~Every 4 years, beginning on January 1, 1995, the commission shall~~
7 ~~review the appropriateness of this \$5 fee and shall report to the joint standing committee~~
8 ~~of the Legislature having jurisdiction over utility matters its recommendations for any~~
9 ~~change in the fee.~~ The collecting utility may appeal to the commission for an extension
10 to meet the requirements of this section. The commission may, for good cause shown,
11 grant an extension.

12 **Sec. 13. 35-A MRSA §3195, sub-§5**, as enacted by PL 1991, c. 413, §1 and
13 affected by §2, is amended to read:

14 **5. Report.** ~~The commission shall submit to the joint standing committee of the~~
15 ~~Legislature having jurisdiction over utilities matters an annual report detailing~~ include in
16 its annual report pursuant to section 120, subsection 6 any significant developments with
17 respect to any actions taken or proposed to be taken by the commission under this section;
18 ~~including actions or proposed actions on mechanisms for protecting ratepayers from the~~
19 ~~transfer of risks associated with rate adjustment mechanisms. The report must be~~
20 ~~submitted by December 31st of each year.~~

21 **Sec. 14. 35-A MRSA §3214, sub-§6**, as enacted by PL 2007, c. 97, §3, is
22 amended to read:

23 **6. Annual report.** The commission shall include in its annual report pursuant to
24 section 120, subsection 7 a report by November 1st of each year to the joint standing
25 ~~committee of the Legislature having jurisdiction over utilities and energy matters on low-~~
26 ~~income assistance programs established or approved under subsection 2 or 3 and any~~
27 ~~equitable-treatment program established pursuant to subsection 5. The report must, at a~~
28 ~~minimum, include:~~

29 A. For each month of the program year, the number of participants enrolled in low-
30 income assistance programs, the number receiving oxygen pump benefits and the
31 number receiving ventilator benefits;

32 B. For each month of the program year, the dollar amount of low-income assistance
33 program benefits, the dollar amount of oxygen pump benefits and the dollar amount
34 of ventilator benefits; and

35 C. An assessment of the effectiveness of the oxygen pump benefit and the ventilator
36 benefit with regard to covering only those electric charges directly related to use of
37 an oxygen pump or ventilator by the program participant.

38 **Sec. 15. 35-A MRSA §3217, sub-§1**, as amended by PL 2001, c. 528, §2, is
39 further amended to read:

40 **1. Annual restructuring report.** ~~On December 31st of each calendar year, the~~ The
41 ~~commission shall submit to the joint standing committee of the Legislature having~~

1 ~~jurisdiction over utility matters include in its annual report pursuant to section 120,~~
2 ~~subsection 7 a report describing the commission's activities in carrying out the~~
3 ~~requirements of this chapter and the activities relating to changes in the regulation of~~
4 ~~electric utilities in other states.~~

5 ~~In its report the commission shall provide an accounting of the commission's actual and~~
6 ~~estimated future costs of enforcing and implementing the provisions of this chapter~~
7 ~~governing the relationship between a transmission and distribution utility and an affiliated~~
8 ~~competitive electricity provider and the costs incurred by transmission and distribution~~
9 ~~utilities in complying with those provisions. The commission shall also provide an~~
10 ~~assessment of the effects of imposing these costs on ratepayers and the potential effects of~~
11 ~~assessing transmission and distribution utilities for these costs and prohibiting the costs~~
12 ~~from being passed through to ratepayers.~~

13 ~~No later than December 1, 2002, the commission shall submit to the joint standing~~
14 ~~committee of the Legislature having jurisdiction over utility matters the report required~~
15 ~~under section 3212, subsection 4, with recommendations for action by the Legislature.~~

16 **Sec. 16. 35-A MRSA §4706, sub-§9,** as enacted by PL 1997, c. 707, §10, is
17 amended to read:

18 **9. Report.** ~~The commission shall submit to the joint standing committee of the~~
19 ~~Legislature having jurisdiction over utilities matters an annual report detailing~~ include in
20 its annual report pursuant to section 120, subsection 6 any significant developments with
21 respect to any actions taken or proposed to be taken by the commission under this section.
22 ~~The report must be submitted by December 31st of each year.~~

23 **Sec. 17. 35-A MRSA §4711, sub-§5,** as enacted by PL 2005, c. 110, §1, is
24 repealed and the following enacted in its place:

25 **5. Report.** The commission shall include in its annual report pursuant to section
26 120, subsection 7 actions taken by gas utilities pursuant to this section, including
27 descriptions of all conservation programs in effect, a description of how the commission
28 determines the cost-effectiveness of each conservation program, total expenditures for
29 each gas utility's conservation programs during the program year and any
30 recommendations for changes to the laws relating to energy conservation by gas utilities.

31 **Sec. 18. 35-A MRSA §7508, sub-§4,** as enacted by PL 2005, c. 131, §2, is
32 amended to read:

33 **4. Annual report.** ~~Annually prior to February 1st, the~~ The commission shall provide
34 ~~a report to the joint standing committee of the Legislature having jurisdiction over~~
35 ~~utilities and energy matters include in its annual report pursuant to section 120,~~
36 subsection 7 a report detailing activities undertaken pursuant to this section. The report
37 must include information on the number of petitions for public-interest pay phones the
38 commission has received, the number of such pay phones the commission has approved
39 and the amount of available funds expended.

1

SUMMARY

2 This bill synchronizes the State Government Evaluation Act review reporting
3 requirements for the Public Utilities Commission and the Emergency Services
4 Communication Bureau. The commission and the Emergency Services Communication
5 Bureau reviews, under current law, are due in different years.

6 The bill incorporates the gas conservation programs, the natural gas rate-making
7 mechanisms, the electric restructuring, the electric incentive ratemaking and the low-
8 income assistance programs and oxygen pump and ventilator benefits annual reports into
9 the commission's annual report. Under current law these annual reports have separate
10 statutory reporting deadlines.

11 The bill clarifies that the Emergency Services Communication Bureau and public
12 interest payphone annual reports, which under current law have the same statutory due
13 date as the commission's annual report, are submitted as part of the commission's annual
14 report as opposed to being submitted separately.

15 The bill eliminates the requirement that the commission report every 4 years to the
16 joint standing committee of the Legislature having jurisdiction over utilities and energy
17 matters on the appropriateness of the maximum fee for blocking or unblocking access to
18 audiotext services and any recommendations for changing the fee.

19 Finally, the bill makes changes to the description of certain existing positions at the
20 commission.